



General Assembly

February Session, 2014

Raised Bill No. 317

LCO No. 1896



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

AN ACT CONCERNING EMPLOYEE PRIVACY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) For purposes of this
2 section:

3 (1) "Applicant" means any person actively seeking employment
4 from an employer;

5 (2) "Employee" means any person engaged in service to an employer
6 in the business of his or her employer;

7 (3) "Employer" means any person engaged in business who has
8 employees, including the state and any political subdivision thereof,
9 except "employer" shall not include any state or municipal law
10 enforcement agency conducting a preemployment investigation or
11 review of law enforcement personnel;

12 (4) "Electronic communications device" means any electronic device
13 that is capable of transmitting, accepting or processing data, including,
14 but not limited to, a computer, computer network and computer

15 system, as those terms are defined in section 53a-250 of the general
16 statutes, and a cellular or wireless telephone;

17 (5) "Personal online account" means an online account that is used
18 by an employee or applicant exclusively for personal purposes and
19 unrelated to any business purpose of such employee's or applicant's
20 employer or prospective employer, including, but not limited to,
21 electronic mail, social media and retail-based Internet web sites.
22 "Personal online account" does not include any account created,
23 maintained, used or accessed by an employee or applicant for a
24 business purpose of such employee's or applicant's employer or
25 prospective employer.

26 (b) Except as provided in subsection (c) of this section, no employer
27 shall:

28 (1) Request or require that an employee or applicant provide such
29 employer with a user name and password, password or any other
30 authentication means for accessing a personal online account;

31 (2) Request or require that an employee or applicant authenticate or
32 access a personal online account in the presence of such employer;

33 (3) Discharge, discipline, discriminate against, retaliate against or
34 otherwise penalize any employee or applicant (A) who refuses or
35 declines to provide such employer with a user name and password,
36 password or any other authentication means for accessing his or her
37 personal online account, (B) who refuses or declines to authenticate or
38 access a personal online account in the presence of such employer, or
39 (C) who files, or causes to be filed, any complaint, whether verbally or
40 in writing, with a public or private body or court concerning such
41 employer's violation of subdivision (1) of this subsection; or

42 (4) Fail or refuse to hire any employee or applicant as a result of his
43 or her refusal to (A) provide such employer with a user name and
44 password, password or any other authentication means for accessing a

45 personal online account, or (B) authenticate or access a personal online
46 account in the presence of such employer.

47 (c) (1) An employer may request or require that an employee or
48 applicant provide such employer with a user name and password,
49 password or any other authentication means for accessing (A) any
50 account or service provided by such employer or by virtue of the
51 employee's employment relationship with such employer or that the
52 employee uses for such employer's business purposes, or (B) any
53 electronic communications device supplied or paid for, in whole or in
54 part, by such employer.

55 (2) No employer shall be prohibited from discharging, disciplining
56 or otherwise penalizing an employee or applicant that has transferred,
57 without such employer's permission, such employer's proprietary
58 information, confidential information or financial data to or from such
59 employee or applicant's personal online account.

60 (d) Nothing in this section shall prevent an employer from:

61 (1) (A) Conducting an investigation for the purpose of ensuring
62 compliance with applicable state or federal laws, regulatory
63 requirements or prohibitions against work-related employee
64 misconduct based on the receipt of specific information about activity
65 on an employee or applicant's personal online account, or (B)
66 conducting an investigation based on the receipt of specific
67 information about an employee or applicant's unauthorized transfer of
68 such employer's proprietary information, confidential information or
69 financial data to or from a personal online account operated by an
70 employee, applicant or other source. Any employer conducting an
71 investigation pursuant to this subdivision may require an employee or
72 applicant to allow such employer to access his or her personal online
73 account for the purpose of conducting such investigation, provided
74 such employer shall not require such employee or applicant to disclose
75 the user name and password, password or other authentication means

76 for accessing such personal online account; or

77 (2) Monitoring, reviewing, accessing or blocking electronic data
78 stored on an electronic communications device paid for, in whole or in
79 part, by an employer, or traveling through or stored on an employer's
80 network, in compliance with state and federal law.

81 (e) Nothing in this section shall be construed to prevent an
82 employer from complying with the requirements of state or federal
83 statutes, rules or regulations, case law or rules of self-regulatory
84 organizations.

85 (f) Any employee or applicant may file a complaint with the Labor
86 Commissioner alleging violations of subsection (b) of this
87 section. Upon receipt of the complaint, the commissioner shall
88 investigate such complaint and may hold a hearing. After the hearing,
89 the commissioner shall send each party a written copy of his or her
90 decision. Any employee or applicant who prevails in such hearing
91 shall be awarded reasonable attorney's fees and costs.

92 (g) If the commissioner finds an employee has been aggrieved by an
93 employer's violation of subdivision (1), (2) or (3) of subsection (b) of
94 this section, the commissioner may (1) levy against the employer a civil
95 penalty of up to five hundred dollars for the first violation and one
96 thousand dollars for each subsequent violation, and (2) award such
97 employee all appropriate relief including rehiring or reinstatement to
98 his or her previous job, payment of back wages, reestablishment of
99 employee benefits or any other remedies that the commissioner may
100 deem appropriate.

101 (h) If the commissioner finds an applicant has been aggrieved by an
102 employer's violation of subdivision (1), (2) or (4) of subsection (b) of
103 this section, the commissioner may levy against the employer a civil
104 penalty of up to twenty-five dollars for the first violation and five
105 hundred dollars for each subsequent violation.

106 (i) Any party aggrieved by the decision of the commissioner may
107 appeal the decision to the Superior Court in accordance with the
108 provisions of chapter 54 of the general statutes.

109 (j) The commissioner may request the Attorney General to bring an
110 action in the Superior Court to recover the penalties levied pursuant to
111 subsections (f) and (h) of this section.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2014</i>	New section
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Statement of Purpose:

To protect employee privacy by barring employers or potential employers from requesting or requiring employees or potential employees to provide passwords or user names to their personal online accounts as a condition of employment.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]